

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

DANNY EVERS,	:	
Plaintiff,	:	Case No. 3:05CV119
vs.	:	District Judge Walter Herbert Rice
		Magistrate Judge Sharon L. Ovington
JO ANNE B. BARNHART,	:	
Commissioner of the Social	:	
Security Administration,	:	
Defendant.	:	

---

---

**REPORT AND RECOMMENDATIONS<sup>1</sup>**

---

---

On March 27, 2006, the Court filed a Decision and Entry remanding this Social Security case to the Commissioner for further administrative proceedings pursuant to sentence four of 42 U.S.C. 405(g). (Doc. #19). The Decision and Entry identified Plaintiff's date last insured as September 30, 1999. *Id.* This case is presently before the Court on the Commissioner's Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e) (Doc. #21), to which Plaintiff has not responded.

The Commissioner contends that alteration or amendment of the Court's Decision and Entry is warranted because it contains a typographical error – Plaintiff's date last insured is June 30, 1999 rather than the date identified in the Decision and Entry. In the absence of opposition by Plaintiff, and because the Administrative Record supports the conclusion that June 30, 1999

---

<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

was Plaintiff's date last insured, *see* Tr. 34, 71, the Commissioner's Motion to Alter or Amend Judgment is well taken.

**IT IS THEREFORE RECOMMENDED THAT:**

1. The Commissioner's Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e) (Doc. #21) be GRANTED;
2. The Decision and Entry filed on March 27, 2006 (Doc. #19) be altered and amended to identify June 30, 1999 as Plaintiff's date last insured; and
3. The case remain terminated on the docket of this Court.

June 1, 2006

\_\_\_\_\_  
s/Sharon L. Ovington  
Sharon L. Ovington  
United States Magistrate Judge

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).